

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARISOL DAVILA,

Plaintiff(s),

-against-

INTREN LLC and BRETT WILLIAM SPARENGERG,

Defendant(s).

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PETITION OF REMOVAL

**TO: THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK, NEW YORK AND TO ALL PARTIES
TO THE ACTION HEREIN:**

Defendants, INTREN LLC and BRETT WILLIAM SPARENGERG file this Petition for Removal under 28 U.S.C. §§ 1441, 1446, 1332, and Federal Rules of Civil Procedure, Rule 81 (c) and Local Rule 81.1 and respectfully show the Court:

- A. The Petitioner is the Defendants in the above-entitled action.
- B. The above-entitled action, as to all named defendants, was commenced in the Supreme Court of the State of New York, County of Bronx, by the electronic filing of a Summons and Complaint, on January 6, 2022 under Index Number 800249/2022E, and is now pending in that Court.
- C. The above-mentioned action is a civil action to recover money damages for alleged negligence.
- D. The action is one of which the United States District Courts are given original jurisdiction under 28 U.S.C. § 1332 (a) by reason of the complete diversity of citizenship of the parties.

E. This action was previously removed to United States District Court on or about February 24, 2022, based upon the information and belief, the amount of controversy in the action, exclusive of interest and costs, is \$5,000,000. (See Plaintiff's Demand, **Exhibit "A"**).

F. However, on or about March 7, 2022, the Honorable Judge Gregory H. Woods remanded the case to state court, citing that when determining a party's citizenship for diversity purposes, a limited liability company "take the citizenship of each of its members. Defendants allege that Intren LLC is a resident of the state of Illinois, however, defendants do not properly allege the citizenship of the members of Intren LLC. Thus, the Court cannot determine whether complete diversity exists, and without complete diversity, the Court does not have subject matter jurisdiction over this case." The Order of Remand does not contain language indicating that the Order was with prejudice. (See, Federal Court Order, **Exhibit "B"**).

G. As established in the prior Petition for Removal, Plaintiff is a resident of the State of New York. Defendant BRETT WILLIAM SPARENGER is a resident of the State of Georgia; Defendant INTREN LLC is a resident of the State of Illinois (See Summons and Complaint, **Exhibit "C"**), and citizenship for members of Intren LLC is as resident of the state of Florida. The Answer of defendants was electronically filed on January 25, 2022 (**Exhibit "D"**). **Since there is diversity of citizenship, the amount in controversy is over \$75,000.00, and the accident site is in Bronx, New York, it is respectfully requested this action be removed to Federal Court, Southern District, in New York County.**

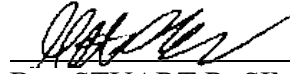
H. Copies of all pleadings, process and orders served in this action are attached hereto, and marked as **Exhibits "A", "B", "C" and "D"**.

WHEREFORE, Petitioner requests that the above-entitled action be removed from the Supreme Court of the State of New York, County of Bronx, to the United States District Court of the Southern District of New York.

Dated: White Plains, New York
March 14, 2022

Yours, etc.

LAW OFFICE OF THOMAS K. MOORE



By: STUART R. SIMON (SS0570)

Attorneys for Defendant(s)

INTREN LLC and

BRETT WILLIAM SPARENGER

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